

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL WAYNE PARSONS,

Defendant.

4:17CR3038

GOVERNMENT'S STATEMENT
REGARDING TENTATIVE FINDINGS
AND REQUEST FOR EVIDENTIARY
HEARING

Comes now the United States of America, plaintiff herein, and pursuant to the Court's Tentative Findings, (Filing No. 165), dated November 13, 2018, provides the following Written Statement Regarding Tentative Findings:

1. The government has no objections to the Court's tentative findings;
2. The Court has noted that several of the defendant's objections will be ruled upon at sentencing and, further, that it is the government's burden to prove the enhancements by a preponderance of the evidence. The Court has likewise directed the parties to file a statement in support of any request for an evidentiary hearing "describing why a hearing is necessary and how long such a hearing would take." Accordingly, the government is requesting the Court allow the government to present evidence at the sentencing in support of certain enhancements. The evidence to be presented will consist of the following:
 - a. The government intends to offer a certified copy of the conviction referenced in paragraph 56 of the Revised Presentence Investigation Report and may request the Court take judicial notice of certain Tennessee statutes if there is a claim the offense is not a felony;

- b. In response to the defendant's objection to paragraph 43, (the government believes the defendant intended to object to paragraph 44), the United States intends to introduce oral testimony and a three minute excerpt of a jail call made by the defendant while an inmate at Phelps County Corrections. In the call the defendant can be heard saying he had bought a cell phone that had international calling on it because his current phone "doesn't work up there." It will further disclose him telling his wife that had he left the Arapahoe Airport "an hour earlier I'd been in the Tsilhqot'in nation right now";
- c. The United States believes oral testimony is necessary as it is likely the defendant will object to any attempt to introduce the evidence through a stipulation;
- d. The proposed witness is SA Monte Czaplewski of the FBI; and
- e. Direct examination of SA Czaplewski should take approximately ten minutes.

Respectfully Submitted

UNITED STATES OF AMERICA, Plaintiff

JOSEPH P. KELLY
United States Attorney
District of Nebraska

By: s/ Jan W. Sharp
JAN W. SHARP (#16934)
Assistant U.S. Attorney
1620 Dodge Street, Suite 1400
Omaha, NE 68102-1506
Tel: (402) 661-3700
E-mail: jan.sharp@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to all registered participants. I also hereby certify that a copy of the same was served by regular mail, postage prepaid, to the following non-CM/ECF participants:

Laura L. Baumann
U.S. Probation

s/ Jan W. Sharp
Assistant U.S. Attorney